



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/24/2838

**Re: Property at 36 Cauldhame Rigg, Stewarton, Kilmarnock, KA3 5QJ (“the
Property”)**

Parties:

**Kirsten Toft, 4 Paxford House Square, Ottery St Mary, Devon, EX11 1BX (“the
Applicant”)**

**Jacquelyn Williamson, Robert Williamson, 36 Cauldhame Rigg, Stewarton,
Kilmarnock, KA3 5QJ (“the Respondent”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and Ann Moore (Ordinary Member)

Decision (in the absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined to make an order for payment in the sum of Two thousand
one hundred and thirty six pounds (£2136) Sterling with interest at the rate of
8% per annum from the date of this decision until payment.**

Background

- 1 By application to the Tribunal the Applicant sought an order for payment against the Respondents in respect of unpaid rent. In support of the application the Applicant provided a copy of the tenancy agreement between the parties and a rent statement.
- 2 By Notice of Acceptance of Application dated 17 July 2024 a Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. The application was therefore referred to a Case Management Discussion (“CMD”) on 25 November 2024 to take place by teleconference. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondents by Sheriff

Officers in accordance with Rule 17(2) of the Rules of Procedure. Both parties were invited to make written representations in advance of the Case Management Discussion.

- 3 Prior to the CMD the Applicant's representative emailed an updated rent statement to the Tribunal, which was copied to the Respondents.

Case Management Discussion

- 4 The CMD took place on 25 November 2024 by teleconference. The Applicant was in attendance and represented by Ms Alexandra Wooley of Bannatyne Kirkwood France and Co. The Respondents were not present. The Tribunal noted that they had been given notification of the CMD under Rule 17(2) of the rules and therefore determined to proceed in their absence.
- 5 The Tribunal explained the purpose of the Case Management Discussion and the legal test and asked for the submissions from Ms Wooley. For the avoidance of doubt the following is a summary of the submissions made and does not constitute a verbatim account of the discussion, only those matters relevant to the Tribunal's determination of the application.
- 6 Ms Wooley advised that the Applicant sought an order for payment in the sum of £2136. She referred to the updated rent statement that had been submitted in advance of the CMD which showed a slight reduction in the arrears due. The Applicant also sought interest at the rate of 8% per annum as per the terms of the tenancy agreement between the parties.
- 7 The Tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the CMD and confirming its decision.

Findings in Fact and Law

- 8 The Applicant entered into a Short Assured Tenancy Agreement with the Respondents dated 17 April 2017, the term of which was 17 April 2017 to 17 October 2017 and monthly thereafter.
- 9 The tenancy between the parties was a short assured tenancy as defined by section 32 of the Housing (Scotland) Act 1988.
- 10 In terms of Clause 3 of the tenancy agreement the Respondents undertook to pay rent at the rate of £795 per month. The Respondents further undertook to pay interest of 8% per annum on any outstanding rent.
- 11 The Applicant served rent increase notices on the Respondents on 31 January 2022 and 3 April 2023.
- 12 The current rent is £834 per month.

- 13 The Respondents are in rent arrears. As at the date of the CMD the arrears outstanding are £2136.
- 14 Despite repeated requests the Respondents have refused or delayed in making payment of the sum lawfully due.

Reasons for Decision

- 15 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. The Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved. The Respondents had not attended the CMD, nor made written representations. They had not sought to challenge the information provided by the Applicant.
- 16 The Tribunal was satisfied based on the application paperwork and the submissions from Ms Wooley that the Respondents had a contractual obligation to pay rent at the rate of £834 per month and that arrears of £2136 were outstanding. The Tribunal was also satisfied that the Respondents had agreed to pay interest of 8% per annum on any outstanding balance.
- 17 The Tribunal therefore made an order for payment in the sum of £2136 together with interest at the rate of 8% per annum from the date of this decision until payment.
- 18 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Ruth O'Hare

27 November 2024

Legal Member/Chair

Date

